



WASHOE COUNTY

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STAFF REPORT

BOARD MEETING DATE: January 13, 2015

DATE: December 19, 2014

TO: Board of County Commissioners

FROM: Clara Lawson, P.E., PTOE, Licensed Engineer
Community Services Department, 328-3603, clawson@washoecounty.us

THROUGH: Dwayne Smith, P.E., Division Director, Engineering and Capital Projects,
Community Services Department, 328-2043, desmith@washoecounty.us

SUBJECT: Introduction and first reading of an ordinance to amend Washoe County Code, Chapter 110, Development Code, at Article 706 (Impact Fees) at Section 110.706.05, *Regional Road Impact Fee*, to correct NRS citations, to reference the latest General Administrative Manual (GAM) for applicability, to adopt the latest approved GAM, to adopt the latest version of the Regional Road Improvement Fee System Capital Improvement Plan (RRIF CIP), to define service area boundaries as within the GAM and fees as within the RRIF CIP, and to set the impact fees in accordance with the GAM and the fee schedule within the Regional CIP; and, providing for matters properly related thereto; and if introduced, set a public hearing for second reading and possible adoption of the ordinance for January 27, 2015 at 6:00 p.m. (All Commission Districts.)

SUMMARY

The purpose of the agenda item is to introduce and hold a first reading of an ordinance amending Washoe County Code, Chapter 110, Development Code, Article 706, Impact Fees, which will bring the Washoe County Development Code into compliance with changes to the adopted General Administrative Manual and Capital Improvements Program of the Regional Transportation Commission of Washoe County; and set the second reading and possible adoption of the ordinance for January 27, 2015, at 6:00 p.m.

Washoe County Strategic Objective supported by this item: Sustainability of our financial, social and natural resources.

PREVIOUS ACTION

On October 28, 2014, the Board of County Commissioners (Board) approved an Interlocal Agreement Regarding Regional Road Impact Fees Pursuant to NRS Chapter 277 and Chapter 278B between Washoe County, the Cities of Reno and Sparks and the Regional Transportation Commission (RTC) for the continuation of the Regional Road Impact Fee Program.

AGENDA ITEM # 16

On November 12, 2014, the Board adopted a resolution authorizing the initiation of amendments to the Development Code, Chapter 110 of County Code, at Article 706, Impact Fees.

On November 12, 2014, the Board adopted a resolution establishing the Washoe County Planning Commission as the Washoe County Capital Improvements Advisory Committee for the Regional Road Impact Fee Program as authorized within NRS 278B.150.

On November 13, 2014, the Planning Commission acknowledged receipt of the “Regional Road Impact Fee Program, 5th Edition Update”.

On January 6, 2015, the Capital Improvements Advisory Committee affirmed that the Regional Road Impact Fee Land Use Assumptions are in conformance with the Washoe County Master Plan and reviewed the Regional Road Capital Improvements Plan and provided comments to be presented to the Board.

On January 6, 2015, the Planning Commission adopted a resolution and recommended approval of proposed amendments to Washoe County Code, Chapter 110, at Article 706, Impact Fees (DCA 14-013).

BACKGROUND

The Regional Road Impact Fee (RRIF) was created as a funding mechanism for roadway capacity improvement projects which are directly related to new development. Nevada Revised Statutes (NRS) 278B allows the imposition of such a fee. An impact fee is defined as a charge imposed by a local government on new development to finance the costs of a capital improvement or facility expansion necessitated by and attributable to the new development. The RRIF has been in effect since February 1996.

In accordance with the provisions of the Interlocal Cooperative Agreement entered into by the RTC, Washoe County, the City of Reno, and the City of Sparks, the RTC is responsible for initiating periodic reviews of the RRIF program and proposing modifications to the participating governments. The review process is undertaken by the RTC in conjunction with the RRIF Technical Advisory Committee (RRIF TAC), which includes local government technical experts, development representatives from the private sector, and members of the local planning commissions.

The RTC retained TischlerBise to perform an overview of the RRIF program and make recommendations for improvements in order to meet state law impact fee requirements, national case law standards, and current best professional practices.

The proposed revision to the Capital Improvement Plan (CIP) incorporates the recommendations from the RRIF Program Overview Report prepared by TischlerBise, along with input from the RRIF TAC.

The RTC Board has approved the modifications to the RRIF General Administrative Manual (GAM) and CIP September 19, 2014. Land use assumptions are presented to the respective Planning Commissions of the Cities of Reno and Sparks and Washoe County for review and to determine conformance to each jurisdiction’s master plan. The land use assumptions are then

presented to the respective elected boards of the Cities of Reno and Sparks and Washoe County for approval. Ordinances approving the CIP are presented to the respective elected boards of the Cities of Reno and Sparks and Washoe County for approval. Resolutions approving the GAM will be presented to elected boards of the Cities of Reno and Sparks and Washoe County for approval.

The Development Code, Chapter 110 of County Code, at Article 706, Impact Fees includes references to the GAM. The Development Code amendment process provides a method of review and analysis for such proposed code changes.

Following the requirements of Washoe County Code Section 110.818.15(e), the Washoe County Planning Commission recommended approval of the proposed Development Code amendments (DCA 14-013) and made the following findings:

- The proposed Development Code amendment is in substantial compliance with the policies and action programs of the Washoe County Master Plan,
- The proposed Development Code amendment will not adversely impact the public health, safety or welfare, and will promote the original purposes for the Development Code as expressed in Article 918, *Adoption of Development Code*,
- The proposed Development Code amendments respond to changed conditions or further studies that have occurred since the Development Code was adopted by the Board of County Commissioners and the requested amendment allow for a more desirable utilization of land within the Regulatory Zones,
- The proposed Development Code amendment will not adversely affect the implementation of the policies and action programs of the Conservation Element or the Population Element of the Washoe County Master Plan.

FISCAL IMPACT

There is no fiscal impact associated with this item.

RECOMMENDATION

It is recommended the Board of County Commissioners hold an introduction and first reading of an ordinance to amend Washoe County Code, Chapter 110, Development Code, at Article 706 (Impact Fees) at Section 110.706.05, *Regional Road Impact Fee*, to correct NRS citations, to reference the latest General Administrative Manual (GAM) for applicability, to adopt the latest approved GAM, to adopt the latest version of the Regional Road Improvement Fee System Capital Improvement Plan (RRIF CIP), to define service area boundaries as within the GAM and fees as within the RRIF CIP, and to set the impact fees in accordance with the GAM and the fee schedule within the Regional CIP; and, providing for matters properly related thereto; and if introduced, set a public hearing for second reading and possible adoption of the ordinance for January 27, 2015 at 6:00 p.m.

POSSIBLE MOTION

Should the Board agree with the recommendation, a possible motion would be: “Move to hold the introduction and first reading of an ordinance to amend Washoe County Code, Chapter 110, Development Code, at Article 706 (Impact Fees) at Section 110.706.05, *Regional Road Impact Fee*, to correct NRS citations, to reference the latest General Administrative Manual (GAM) for applicability, to adopt the latest approved GAM, to adopt the latest version of the Regional Road Improvement Fee System Capital Improvement Plan (RRIF CIP), to define service area boundaries as within the GAM and fees as within the RRIF CIP, and to set the impact fees in accordance with the GAM and the fee schedule within the Regional CIP; and, providing for matters properly related thereto; and if introduced, set a public hearing for second reading and possible adoption of the ordinance for January 27, 2015 at 6:00 p.m.”

REGULAR TEXT: NO CHANGE IN LANGUAGE

~~STRIKEOUT TEXT:~~ DELETED LANGUAGE

BOLD TEXT: NEW LANGUAGE

Notice: Per NRS 239B.030, this document does not contain personal information as defined in NRS 603A.040

Summary: To amend Washoe County Code, Chapter 110, Development Code, at Article 706 (Impact Fees) to adopt components of the Regional Road Impact Fee.

BILL NO. _____

ORDINANCE NO. _____

An ordinance amending the Washoe County Code at Chapter 110, Development Code, at Article 706 (Impact Fees) at Section 110.706.05, *Regional Road Impact Fee*, to correct NRS citations, to reference the latest General Administrative Manual (GAM) for applicability, to adopt the latest approved GAM, to adopt the latest version of the Regional Road Improvement Fee System Capital Improvement Plan (RRIF CIP), to define service area boundaries as within the GAM and fees as within the Regional CIP, and to set the impact fees in accordance with the GAM and the fee schedule within the RRIF CIP; and, providing for matters properly related thereto.

WHEREAS:

- A. Following the notice and public hearing requirements set forth in Washoe County Code Chapter 110, Article 818, and following the hearing recommends adoption of an ordinance that amends Section 110.706.05; and
- B. This ordinance is adopted pursuant to a provision in NRS Chapter 278 and therefore is not a "rule" as defined in NRS 237.060 and does not require a business impact statement.

THE BOARD OF COUNTY COMMISSIONERS OF WASHOE COUNTY DOES HEREBY ORDAIN:

SECTION 1. Section 110.706.05 (Regional Road Impact Fee) is hereby amended to read as follows:

Section 110.706.05 Regional Road Impact Fee.

(a) Short Title, Authority and Application.

- (1) Title. This section shall be known and may be cited as the "Regional Road Impact Fee" (hereinafter "RRIF") section.
- (2) Authority. The Board of County Commissioners of Washoe County has the authority to adopt this section pursuant to the Nevada Constitution, Sec. 278, ~~et. seq.~~, NRS, Sec. 278B.010–278B.320, NRS, Sec. 244.155 and 244.195, NRS, and Sec. 277.080–277.180, NRS NRS 278B.
- (3) Application. This section shall apply to all lands within unincorporated Washoe County that are within the Service Area, **as defined in the latest adopted Regional Road Impact Fee System General Administration Manual (herein after "GAM")** and pursuant to the Regional Road Impact Fee Ordinance Interlocal Cooperative Agreement (hereinafter "RRIF Interlocal Cooperative Agreement"), ~~and all other lands within the boundaries of the City of Reno and the City of Sparks.~~

(b) Intent and Purpose.

- (1) Intent is to Implement Regional CIP, Local Road CIPs and Local Master Plans. This section is intended to implement and be consistent with the Regional Road Impact Fee System Capital Improvements Plan (hereinafter "RRIF CIP"), the Washoe County Road Capital Improvements Plan (hereinafter "Local CIP") and **the Washoe County Master Plan**, and the Local CIPs and Master Plans of the other two (2) Participating Local Governments.
- (2) Purpose is to Establish Regionwide Impact Fee Program. The purpose of this section is to establish a Regionwide Impact Fee Program by the establishment of a comprehensive and Regionwide system for the imposition of road impact fees to assure that new development contributes its proportionate share of the cost of providing, and benefits from the provision of, the road capital improvements identified as needed to be built in the RRIF CIP which has been adopted as Washoe County's Local CIP, and the Local CIP of the other two (2) Participating Local Governments.

(c) Liberal Construction, Severability and Penalty Provisions.

- (1) Liberal Construction. The provisions of this section shall be literally construed to effectively carry out its purposes in the interest of the public health, safety, welfare and convenience.
- (2) Severability. If any subsection, phrase, sentence or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction,

such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

- (d) Adoption and Amendment of the Regional Road Impact Fee System General Administrative Manual. The ~~latest Regional Road Impact Fee System General Administrative Manual~~ (hereinafter "RRIF Manual" **GAM**) ~~as amended and approved by Washoe County and by the Washoe County~~ the Regional Transportation Commission (RTC) of Washoe County on June 15, 2007 and attached as Exhibit "1" and incorporated by reference, is hereby adopted. The RRIF **GAM** Manual shall contain appropriate definitions, an independent fee calculation study, exemptions, credits, appeals and review sections for the effective administration of the program. It may subsequently be amended by a resolution approved by the Regional Transportation Commission Board and the Governing Bodies of each Participating Local Government.

Fees identified in ~~Exhibit "1"~~ the RIFF CIP shall be adjusted pursuant to the procedures enumerated below:

- (1) That except as provided in subsection (2), below, the ~~columns designated Cost in Dollars per Vehicle Mile Travelled, ("\$/VMT") and "Fees" in Exhibit "D"~~ of the Regional Road Impact Fee System General Administrative Manual RRIF CIP shall be increased automatically every twelve months by the RTC RRIF Administrator:
- (i) By a percentage equal to the average annual percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding five (5) calendar years; or
 - (ii) By 4.5 percent, whichever is less.
- (2) No increase authorized by subsection (1), above, shall occur within a twelve month period following action by the County to:
- (i) Adopt any revisions to the Regional Road Impact Fee land use assumptions in accordance with NRS 278B.290; or
 - (ii) Adopt any ordinance that amends the Regional Road Impact Fee System Capital Improvement Plan; or
 - (iii) Otherwise increase the impact fee.
- (e) Adoption of the Regional Road Improvement Fee System Capital Improvement Plan ("RRIF CIP"). The RRIF CIP, ~~as amended and adopted by the Regional Transportation Commission of Washoe County on June 15, 2007 and attached as Exhibit "2" and incorporated by reference,~~ is hereby adopted. ~~It may be amended only by subsequent ordinance.~~ **Washoe County has the responsibility to adopt the latest edition of the RRIF CIP by ordinance as specified in the GAM.**
- (f) Service Area and Benefit Districts. ~~The area encompassed within the boundaries of the three (3) Benefit Districts is hereby designated as the Service Area for the imposition of regional road impact fees and the collection and expenditure of funds under the provisions of this section. The Service Area is identified in Figure 1 of the RRIF CIP, referred to in paragraph (e) of this section and is defined as:~~ **Service area and benefit district boundaries are described in the latest adopted edition of the GAM. Fees associated with the service areas are the latest adopted edition of the RRIF CIP.**

- (1) ~~Northwest Benefit District. Starting at the southwest corner of the district at the California-Nevada state line and Interstate 80, follow the state line north to the northern boundary of the Washoe County North Valleys planning area (i.e. northern boundary of the Red Rock Hydrographic Basin boundary), then east along the northern boundary of the North Valleys planning area (i.e. northern boundary of the Red Rock and Bedell Flat Hydrographic Basin boundary), then south along the eastern edge of the North Valleys planning area (i.e. eastern boundary of the Bedell Flat and Antelope Valley Hydrographic Basin boundary) to the western edge of the Washoe County Sun Valley planning area boundary, then continue south along the western edge of the Sun Valley planning area to U.S. 395 at the Sutro Street terminus, then southeast along the U.S. 395 alignment to Interstate 80, then west along Interstate 80 to the state line.~~
- (2) ~~Northeast Benefit District. Starting at the southwest corner of the district at the U.S. 395-Interstate 80 interchange, follow U.S. 395 northwest to the Sutro Street terminus, then continue north along the western edge of the Washoe County Sun Valley planning area to the eastern edge of the Washoe County North Valleys planning area, then north to the western edge of the Washoe County Warm Springs planning area, then north to the northwest corner of the Warm Springs planning area, then east along the northern boundary of the Warm Springs planning area, then southeast and south along the boundary of the Warm Springs planning area, then west along the southern boundary of the Warm Springs planning area to the eastern edge of the Washoe County Spanish Springs planning area and the Washoe County Truckee Canyon planning area, then southwest along the western edge of the Truckee Canyon planning area to Interstate 80, then west along Interstate 80 to U.S. 395.~~
- (3) ~~South Benefit District. Starting at the northwest corner of the district at the California-Nevada state line and Interstate 80, follow Interstate 80 east to the western edge of the Washoe County Truckee Canyon planning area, then south along the Washoe County Storey County line to the Washoe County Carson City line, then west along the Washoe County Carson City line to the southern jurisdictional line of the Tahoe Regional Planning Agency and the Washoe County Tahoe planning area, then north along the California-Nevada state line to Interstate 80.~~

(g) Impact Fees. The amount of the impact fees shall be determined by the Local RRIF Administrator in accordance with the applicable provisions of the RRIF Manual amended and adopted June 15, 2007 or as subsequently amended by resolution as provided herein **latest adopted edition of the GAM** and the application of the fee schedule identified in the relevant table of the RRIF CIP **latest adopted edition of the RIFF CIP** referred to in paragraph (e) of this section. Said fee schedule may only be modified by subsequent ordinance.

(h) Use of Funds.

(1) Establishment of Trust Fund. There is hereby established the Washoe County Regional Road Impact Fee Trust Fund (hereinafter "Washoe County RRIF Trust Fund") and the RTC Regional Road Impact Fee Trust Fund (hereinafter "RTC RRIF Trust Fund") for the purpose of ensuring that fee payers receive sufficient benefit for regional road impact fees paid.

(2) Deposit in Trust Fund/General Requirements for Trust Fund.

- (i) All regional road impact fees collected by Washoe County's RRIF Administrator pursuant to this section shall be immediately deposited in the Washoe County RRIF Trust Fund.
- (ii) Any proceeds in the Washoe County RRIF Trust Fund not immediately necessary for expenditure shall be invested in an interest-bearing account. All income derived from these investments shall be retained in the Washoe County RRIF Trust Fund until transferred to the RTC RRIF Trust Fund. Record of the Washoe County RRIF Trust Fund accounts shall be available for public inspection in the Local Government RRIF Administrator's Office, during normal business hours.
- (iii) No less frequently than quarterly, and pursuant to the RRIF Interlocal Cooperative Agreement, the Washoe County RRIF Administrator shall transfer the impact fee funds in the Washoe County RRIF Trust Fund to the RTC RRIF Administrator, who shall deposit these funds in the RTC RRIF Trust Fund. All proceeds in the RTC RRIF Trust Fund not immediately necessary for expenditure shall be invested in an interest bearing account. Records of the RTC RRIF Trust Fund accounts shall be available for public inspection in the RTC RRIF Administrator's Office, during normal business hours.

(3) Limitations on Expenditures.

- (i) Impact fee monies shall only be expended from funds drawn from the RTC RRIF Trust Fund.
- (ii) Funds shall only be expended on those projects selected by the RTC Board and approved by the RTC Board and the Participating Local Governments in the RRIF Interlocal Cooperative Agreement.
- (iii) The expenditure of impact fee funds shall be limited to those road capital improvement projects included in the RRIF CIP.
- (iv) For the purposes of determining whether impact fee funds have been spent or encumbered, the first fees collected shall be considered the first monies spent or encumbered.
- (v) If impact fee funds transferred to the RTC RRIF Trust Fund are required to be refunded pursuant to Section VIII of the RRIF Manual, they shall be returned by the RTC RRIF Administrator to the Local RRIF Administrator for refund.

~~(4) Benefit Districts. The Service Area is divided into three (3) Benefit Districts as described in the RRIF CIP. Impact fee funds shall be spent within the Benefit District from which the traffic-generating land-development activity paying the fee is located, except that:~~

- ~~(i) Where a road on the RRIF Network as identified in the RRIF CIP is used to define Benefit District boundaries, the road demarcating the boundary shall be considered as part of both Benefit Districts that it bounds, the impact fees from both Benefit Districts may be used to fund road capital improvements for that road; or~~

~~(ii) Impact fee funds from all Benefit Districts may be used to fund road capital improvements identified on the RRIF CIP for McCarran Boulevard and Virginia Street; or~~

~~(iii) Impact fee funds may be used to fund a road capital improvement on the RRIF CIP outside the Benefit District from which the fees are collected if it is demonstrated by competent substantial evidence that the feepayers from the Benefit District from which the fees come will receive sufficient benefit from the road capital improvement.~~

(i) Requirement for Initiating Resolution to Amend Article. The requirement of Section 110.818.05, Requirements for Application, does not apply to the amendment of this section.

(j) Effective Date of Regional Road Impact Fee Section. The RRIF section shall become effective thirty (30) days after this section and similar Ordinances are adopted by the City of Reno and the City of Sparks **other two participating local governments.**

SECTION 2. General Terms.

1. All actions, proceedings, matters and things heretofore taken, had and done by the County and its officers not inconsistent with the provisions of this Ordinance are ratified and approved.
2. The Chairman of the Board and the officers of the County are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this ordinance. The District Attorney is authorized to make non-substantive edits and corrections to this Ordinance.
3. All ordinances, resolutions, bylaws and orders, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaw or order, or part thereof, heretofore repealed.
4. Each term and provision of this ordinance shall be valid and shall be enforced to the extent permitted by law. If any term or provision of this ordinance or the application thereof shall be deemed by a court of competent jurisdiction to be in violation of law or public policy, then it shall be deemed modified, ipso facto, to bring it within the limits of validity or enforceability, but if it cannot be so modified, then it shall be excised from this ordinance. In any event, the remainder of this ordinance, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected.

PASSAGE AND EFFECTIVE DATE

This ordinance was proposed on _____ by Commissioner _____.

This ordinance was passed on _____.

Those voting "aye" were _____.

Those voting "nay" were _____.

Those absent were _____.

Those abstaining were _____.

This ordinance shall be published and shall be in force and effect immediately upon the date of the second publication as set forth in NRS 244.100.

Chairman
Washoe County Commission

ATTEST:

Nancy Parent, County Clerk